

**IN UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE**

HARRY L. SAMUEL

Plaintiff,

v.

THOMAS CARROLL, ET. AL

Defendants,

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C.A. No. 05-037- SLR

JURY OF 12 DEMANDED

**RESPONSE OF DEFENDANT FIRST CORRECTIONAL MEDICAL TO PLAINTIFF'S
MOTION FOR DEFAULT JUDGMENT**

Defendant First Correctional Medical, hereinafter "FCM", requests that this Court deny plaintiff's Motion for default judgment for the following reasons:

1. Counsel for FCM was notified by its client of this matter on January 10, 2006.
2. From that point forward, counsel for FCM continued to monitor the docket in this matter monthly for indications of Service or Waiver of Service.
3. On March 3, 2006, counsel for FCM pulled a docket report and the last date of entry was February 17, 2006.
4. Plaintiff filed his Motion for Default Judgment as to all defendants on March 10, 2006 (D.I. 56). As of this date, there was no docket indication that FCM had been served.
5. On March 13, 2006, the docket finally indicated that FCM had waived service on January 3, 2006 and an answer was due March 6, 2006. See D.I. 55.
6. Counsel for FCM did not file an Answer to plaintiff's complaints by March 10, 2006, because she was not aware, and the docket did not reflect, that FCM had been formally served in the

matter.

For the aforementioned reasons, FCM respectfully requests that this Court deny plaintiff's Motion for Default Judgment.

McCULLOUGH & McKENTY, P.A.

/s/ Dana Spring Monzo

Dana Spring Monzo

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(302) 655-6749

Attorney for Defendant First Correctional Medical

Dated: June 29, 2006

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CERTIFICATE OF SERVICE

I, **DANA SPRING MONZO**, hereby certify that this date attached *Answer of Defendant First Correctional Medical to Plaintiff's Motion for Default Judgment* was served upon the following:

Via Electronic Service

**Kevin J. Connors
1220 N. Market Street, Suite 500
P.O. Box 8888
Wilmington, DE 19899**

**Ophelia M. Waters
820 N. French Street, 8th Floor
Wilmington, DE 19801**

Via U.S. Mail

**Harry L. Samuel
SBI# 201360
Delaware Correctional Center
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/s/ Dana Spring Monzo

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Attorney for Defendant First Correctional Medical

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